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5 UNITED STATES DISTRICT COURT  
6 CENTRAL DISTRICT OF CALIFORNIA  
7 WESTERN DIVISION  
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10 JACOB A. ZEPEDA,

11 Plaintiff,

12 v.

13 COUNTRYWIDE BANK, N.A. et al.,

14 Defendants.  
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No. SACV 10-191 VBF (FFM)

ORDER TO SHOW CAUSE WHY  
ACTION SHOULD NOT BE  
DISMISSED FOR LACK OF SUBJECT  
MATTER JURISDICTION

16 Federal court are courts of limited jurisdiction. If subject matter jurisdiction  
17 does not affirmatively appear, federal courts are presumed to lack jurisdiction.  
18 *National Treasury Employees Union v. Federal Labor Relations Authority*, 112 F.3d  
19 402, 403 (9th Cir. 1997), citing *General Atomic Co. v. United Nuclear Corp.*, 655 F.2d  
20 968, 968-69 (9th Cir. 1981). Here, plaintiff has labeled his complaint as a “Verified  
21 Complaint for Emergency Declaratory and Injunctive Relief to Void Power of Sale.”  
22 Plaintiff has not alleged diversity. Therefore, the only possibility here for federal court  
23 jurisdiction would be if plaintiff could allege federal question jurisdiction. The  
24 complaint alleges that it is based on a violation of 42 U.S.C. § 1983. However, “a  
25 jurisdictional requisite for a § 1983 action” is “that the defendant’s actions were taken  
26 under color of state law.” *Gritchen v. Collier*, 254 F.3d 807, 812 (2001). The  
27 defendants, Countrywide N.A., MERS, Reconstrust Company, and U.S.

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1 Bank, N.A., are not state actors. Therefore, it does not appear that this Court has  
2 jurisdiction based on the § 1983 claim.

3 The complaint also mentions the Fair Debt Collection Practices Act, 15 U.S.C.  
4 1692-1692p. However, nothing alleged in the complaint appears to state any claim  
5 pursuant to that act.

6 It is therefore ordered that plaintiff shall show cause in writing, not later than  
7 March 22, 2010, why this action should not be dismissed for lack of subject matter  
8 jurisdiction.

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10 DATED: March 4, 2010

11 /S/ FREDERICK F. MUMM  
12 FREDERICK F. MUMM  
13 United States Magistrate Judge  
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